

Message Text

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FM AMEMBASSY MANILA
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E O 11652: GDS
TAGS: PINS, RP
SUBJ: AQUINO AND OSMENA/LOPEZ

1. MANILA PAPERS REPORTED APRIL 26 SUPREME COURT DECISION
1) TO DENY AQUINO RIGHT TO WITHDRAW HIS PETITIONS CHALLENGING TRIAL BY MILITARY TRIBUNAL; 2) TO PERMIT CONTINUATION OF PERPETUATION OF EVIDENCE HEARINGS BY MILITARY TRIBUNAL;
3) TO PERMIT HIS ABSENCE FROM THOSE HEARINGS EXCEPT WHEN REQUIRED FOR IDENTIFICATION PURPOSES. ACCORDING TO THE PRESS REPORTS, IT WOULD APPEAR THAT 6 OUT OF 10 VOTING JUSTICES FAVORED WITHDRAWAL OF THE AQUINO CASE FROM MILITARY TRIBUNAL JURISDICTION, AS WELL AS TOTAL NON-APPEARANCE AT THE HEARINGS, BUT SINCE THEY FAILED TO MUSTER THE REQUIRED THEORETICAL MAJORITY OF 8 (OUT OF 15) THEIR VOTE DID NOT COUNT. PRESS NOTED THAT AQUINO CONTINUES ON FAST AND REPEATED FOUR "CONDITIONS" OF AQUINO'S FOR ENDING FAST. COMMENT: SIZEABLE NUMBER OF JUSTICES VOTING, IN EFFECT, FOR AQUINO REPRESENTS RATHER NEW TWIST TO THE CONTEST. ALTHOUGH PERPETUATION HEARINGS MAY NOW RESUME, WE ARE UNCERTAIN OF TIMING AND IN ANY EVENT DOUBT THAT AQUINO WOULD BE COMPELLED TO ATTEND VIEW PUBLICITY THAT WOULD BE GIVEN TO HIS WEAKENED CONDITION. SO FAR AS EMBASSY CAN DETERMINE, GENERAL PUBLIC UNDERSTANDING OF AND SUPPORT FOR AQUINO FAST IS NOT GREAT.
END COMMENT.

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2. PRESS ALSO REPORTED THAT FIVE MAN REINVESTIGATION

PANEL HEADED BY AFP JUDGE ADVOCATE SANTOS AND LOOKING INTO CHARGES AGAINST OSMENA/LOPEZ HAD RESPONDED TO VARIOUS DEFENSE MOTIONS. PANEL DENIED TANADA REQUEST GOP WITHDRAW CHARGES AGAINST LOPEZ/OSMENA AND IT ALSO REULED THAT CRIMINAL CASE AGAINST THE ACCUSED HAD NOT BEEN REMOVED FROM MILITARY TRIBUNAL NOR COULD IT BE "DEEMED TRANSFERRED TO THE CIVIL COURT." PANEL ALSO WITHHELD JUDGEMENT ON DIOKNO REQUEST THAT MILITARY AUTHORITIES NOT PERMIT INTERVIEWS OR MOVEMENT OF HIS CLIENTS WITHOUT HIS KNOWLEDGE AND APPROVAL, NOTING THAT LUMAN, FOR ONE, APPEARED TO HAVE ENGAGED COUNSEL OF

ERNESTO BERNABE. COMMENT: GOVERNMENT DENIAL OF TANADA CHALLENGE OF JURISDICTION OF MILITARY TRIBUNAL WAS TO BE EXPECTED AND DOES NOT PREVENT GOVERNMENT ULTIMATELY TRYING OSMENA/LOPEZ IN CIVIL COURT ONCE AND IF IT DECIDES TO BRING THEM TO TRIAL. INTRODUCTION OF BERNABE AS LEHMAN COUNSEL WOULD APPEAR TO CONFIRM ARANGEMENT REPORTED MANILA 5352. END COMMENT.

SULLIVAN

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